

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

CHILDREN'S HEALTH DEFENSE,  
ET AL.,

Petitioners,

V.

THE FEDERAL COMMUNICATIONS  
COMMISSION,

and

THE UNITED STATES OF AMERICA.

### Respondents.

Case No. 20-70297

**MOTION FOR LEAVE TO FILE**  
**AMICI BRIEF**

Pursuant to Fed. R. App. P. 29(a)(2), Movants Environmental Health Trust, Consumers for Safe Cell Phones, Elizabeth Barris, and Theodora Scarato (“Movants”) hereby request leave from this Court to file an *amici* brief in the above-captioned case.<sup>1</sup> Movants filed a petition for review of the same Federal Communications Commission (“FCC”) order at issue in this case in the United States Court of Appeals for the District of Columbia Circuit (“D.C. Circuit”) on January 31, 2020. Case No. 20-1025 (Dkt. #1).

<sup>1</sup> All parties consent to this motion.

Movants therefore have a strong interest in the proceedings before this Court, including the FCC's motion to transfer this case to the D.C. Circuit (Dkt. #10) and Petitioners' opposition thereto (Dkt. #11). Movants waited until the parties to this case had fully briefed the transfer issue. Had all parties adequately addressed the statutory requirement to transfer, this motion and *amici* brief would have been unnecessary. Unfortunately, that did not happen.

As explained in the attached *amicus* brief, at a minimum, the Movants' first-in-time petition for review of the *Resolution of Notice of Inquiry* is now ripe for judicial review and that portion of the FCC order must be immediately transferred to the D.C. Circuit so that review can begin without any further delay.

Respectfully submitted,

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March 13, 2020

## **CERTIFICATE OF SERVICE**

I, Edward B. Myers, certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Edward B. Myers  
Edward B. Myers

*Counsel for Movants Environmental  
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March 13, 2020

## **CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT**

This document complies with the type-volume limit of Fed. R. App. P. 27(d)(2)(A) because it contains 216 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).

This brief also complies with the typeface requirements of Fed. R. App. P. 32(a)(5)(A) and the type style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in Times New Roman font size 14.

/s/ Edward B. Myers  
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March 13, 2020